

401 KAR 49:080. Solid waste grant funds and solid waste collector and recycler registration.

RELATES TO: KRS 224.1-010(20), 224.10-420, 224.10-440, 224.43-310, 224.43-315, 224.43-345, 224.43-505, 224.50-878

STATUTORY AUTHORITY: KRS 224.43-340, 224.43-345, 224.43-505

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.43-340 authorizes the cabinet to promulgate administrative regulations pursuant to KRS Chapter 224 for the reduction and management of solid waste. This administrative regulation establishes administrative procedures concerning registration of solid waste collectors and recyclers and the Kentucky Pride Fund established in KRS 224.43-505.

Section 1. Definitions. (1) "City street cleanup" means the cleanup of litter along a number of city street miles equivalent to one-half (1/2) of a city's total street miles in accordance with KRS 224.43-345(1)(g)4.

(2) "Direct expenses":

(a) Means:

1. For litter abatement program activities, direct expenses include staff time, supplies, contract costs, expenditures related to the operation of equipment, actual disposal costs incurred, and activities, including education, focusing on litter prevention and litter cleanup along public roadways; or

2. For illegal open dump cleanup activities, direct expenses include staff time, supplies, contractor costs, expenditures related to the operation of equipment for remediation, and actual disposal costs; and

(b) Does not mean the purchase of a motor vehicle or lease of a motor vehicle if the lease includes a purchase option.

(3) "Illegal open dump" means a facility or site used for the disposal of solid waste that:

(a) Is equal to or greater than two (2) consolidated cubic yards; and

(b)1. Does not have a valid solid waste permit issued by the cabinet pursuant to 401 KAR Chapters 47 and 48; or

2. Has a valid solid waste permit issued by the cabinet pursuant to 401 KAR Chapters 47 and 48, but does not meet the standards established by 401 KAR 30:031.

(4) "Litter abatement program" means an anti-litter control program funded by grants pursuant to KRS 224.43-505(2).

(5) "Public road cleanup" means the cleanup of litter along a number of public road miles equivalent to one-third (1/3) of the total public road miles in the solid waste management area, excluding total city street miles in accordance with KRS 224.43-345(1)(g)4.

(6) "Recycler":

(a) Means:

1. A person who operates a business for the purpose of recycling recovered material, as defined by KRS 224.1-010(20), collected or diverted from the municipal solid waste stream; and

2. Does not mean a business operated for the exclusive purpose of collecting motor vehicles or motor vehicle parts to be sold for reuse; or

(b) A city or county that is operating a recycling program for the purpose of collecting or diverting recovered material, as defined by KRS 224.1-010(20), from the municipal solid waste stream.

(7) "Regional" means a partnership between two (2) political subdivisions that are not within the same county.

(8) "Solid waste collector" means a person who provides collection of municipal solid waste,

including collection for the purpose of recycling.

Section 2. Solid Waste Collector and Recycler Registration and Reporting. (1) By February 1 of each year, each solid waste collector and recycler shall register and report to the county in which it provides the service in accordance with KRS 224.43-315(2) and (3).

(2) Solid waste collectors and recyclers required to register and report, pursuant to KRS 224.43-315(2) and (3), and this administrative regulation, shall use one (1) of the following:

(a) Municipal Solid Waste (MSW) Collector and Recycler Registration and Report, DEP 5033; or

(b) A form approved by the county that contains, at a minimum, the same information as found in the form established in paragraph (a) of this subsection.

Section 3. Litter Abatement Program Grants. (1) A litter abatement program grant shall be available to:

(a) Counties; and

(b) Those incorporated cities that provide garbage collection service, either:

1. Directly by the city;

2. By contract between the city and the county; or

3. By a contract between the city and a solid waste collector registered pursuant to Section 2 of this administrative regulation.

(2)(a) Litter abatement program grant recipients shall use grant funding for direct expenses associated with public road cleanup and city street cleanup requirements referred to in KRS 224.43-345(1)(g)4.

(b) Litter abatement program grant recipients shall keep documentation related to grant activities, including grant expenditure documentation, for at least three (3) years.

(3) Counties applying for litter abatement program grant funding shall complete and submit a County Request and Agreement for Litter Abatement Program Grant Funding, DEP 7117, to the cabinet by November 1 annually.

(4)(a) Incorporated cities, who meet the qualification of subsection (1)(b) of this section, applying for litter abatement program grant funding shall complete and submit a City Request and Agreement for Litter Abatement Program Grant Funding, DEP 7118, to the cabinet by November 1 annually.

(b) A copy of the city's solid waste ordinance or solid waste contract shall be submitted with the application.

(5) Applicants for litter abatement program grant funding shall be in compliance with KRS 224.43-340.

(6)(a) It shall be the responsibility of the litter abatement program grant funding recipient to demonstrate compliance with subsection (2) of this section.

(b) The head of the governing body of the grant recipient shall certify that litter abatement program grant funding was spent in accordance with subsection (2) of this section.

(c) A county shall submit the Solid Waste Management Area Annual Report, DEP 6061, incorporated by reference in 401 KAR 49:011, to the cabinet by March 1, to meet the requirements of KRS 224.43-310(5) and 401 KAR 49:011, Section 7.

(d) An incorporated city shall submit the City Litter Abatement Program Annual Report and Certification for Grant Funding, DWM 4900, to the cabinet by February 1.

(7) Litter abatement program grant funding not spent in the calendar year it is received shall be returned to the cabinet by April 15 of the following year.

(8) Grant recipients that complete and submit a certification in accordance with subsection (6) of this section shall be presumed to have complied with the public road cleanup and city

street cleanup requirements of KRS 224.43-345(1)(g)4.

Section 4. Illegal Open Dump Cleanup Grant Program. (1) A county shall be eligible for illegal open dump cleanup grant funding if the county meets the criteria established in KRS 224.43-505(3)(b).

(2)(a) A county shall comply with KRS 224.43-505(3)(b)2 by employing:

1. A solid waste coordinator to implement and enforce KRS 224.43-340 and 224.43-345; or
2. A solid waste coordinator and an enforcement officer to implement and enforce KRS 224.43-340 and 224.43-345.

(b) The solid waste coordinator shall not be an elected official.

(3) Eligible counties applying for illegal open dump cleanup grant funding for the cost of eliminating illegal open dumps shall apply by:

(a) Submitting:

1. Illegal Open Dump Cleanup Grant Program Grant Application, DEP 7125;
2. Illegal Open Dump Cleanup Grant Program Estimated Expense Worksheet, DEP 6086;
3. Illegal Open Dump Characterization Worksheet, DEP 8063;
4. DWM Pre-Inspection Report, including photographs; and

(b) Entering into a grant agreement.

(4) Grant funding shall be used for the direct expenses associated with the cleanup of illegal open dumps approved by the cabinet in the original or supplemental application for the applicable grant period.

(5) Illegal open dumps that have already been remediated two (2) times with assistance from the Kentucky Pride Fund during a five (5) year Areas Solid Waste Management Plan Update period shall not be eligible for grant funding.

(6) Grant recipients shall submit the Illegal Open Dump Cleanup Grant Program Final Expense Worksheet, DEP 6088, with attached invoices for rental equipment and contractor costs, receipts for disposal and miscellaneous supplies, photographs, and DWM Post-inspection Report to the cabinet demonstrating actual cleanup costs pursuant to subsection (4) of this section for the illegal open dumps approved in the application not later than thirty (30) days after the end of the grant period.

(7) Grant recipients shall submit the Illegal Open Dump Cleanup Grant Program Final Expense Worksheet, DEP 6088, with attached invoices for rental equipment and contractor costs, receipts for disposal and miscellaneous supplies, photographs, and DWM Post-inspection Report to the cabinet demonstrating actual cleanup costs pursuant to subsection (4) of this section for the illegal open dumps approved in the supplemental application not later than thirty (30) days after the end of the grant period.

(8) Illegal open dump cleanup grant recipients shall comply with the terms and conditions of the grant agreement.

(9) Illegal open dump cleanup grant funding not spent in accordance with KRS 224.43-505 within the grant period shall be returned to the cabinet within forty-five (45) days of notification by the cabinet that grant funding needs to be returned.

Section 5. Recycling Grant Program. (1) Counties, waste management districts, cities, urban-county governments, or other political subdivisions of the state may apply for recycling grants established in KRS 224.43-505(4).

(2) Applicants shall meet the requirements of KRS 224.43-505(4)(a), (b), and (c).

(3) Applications creating regional recycling infrastructure shall be given priority.

(4) Applications for recycling grants shall be applied for by February 1 annually.

(5) Applicants shall submit Kentucky Pride Fund Recycling Grant Application, DEP 7126.

(6)(a) Grant recipients shall submit quarterly reports not later than thirty (30) days after the end of each quarter throughout the grant period on Kentucky Pride Fund Recycling Grant Quarterly Report, DEP 5038.

(b) Grant recipients shall submit the final quarterly report not later than thirty (30) days after the end of the grant period.

(7) Grant recipients shall comply with the terms and conditions of the grant agreement.

(8) Recycling grant funds shall not be awarded to an otherwise eligible entity if the entity is out of compliance with KRS 224.43-315, 224.43-340, 224.43-345, 224.43-505, or 224.50-878.

(9) Recycling grant funding not spent in the grant period shall be returned to the cabinet within forty-five (45) days of notification by the cabinet that grant funding needs to be returned.

Section 6. Household Hazardous Waste (HHW) Management Grant Program. (1) Counties, waste management districts, cities, urban-county governments, or other political subdivisions of the state may apply for household hazardous waste management grant funds. The application shall be as established in KRS 224.43-505.

(2) Household hazardous waste management grants shall be applied for annually.

(3) Applicants shall submit Kentucky Pride Fund Household Hazardous Waste Management Grant Application, DEP 7127.

(4) Grant recipients shall be limited to one event annually, unless a supplemental application is submitted.

(5) If a county has grant funding remaining after conducting the approved household hazardous waste collection event on the original application, the county may submit a supplemental application.

(a) Supplemental applications shall be submitted on Kentucky Pride Fund Household Hazardous Waste Management Grant Application, DEP 7127, not later than sixty (60) days before the end of the grant period.

(b) Kentucky Pride Fund Household Hazardous Waste Management Grant Close-out Report, DEP 6087, shall be submitted with the supplemental application.

(6) Grant recipients shall submit Kentucky Pride Fund Household Hazardous Waste Management Grant Close-out Report, DEP 6087, within forty-five (45) days of completion of the event.

(7) Household Hazardous Waste Management Grant funds shall not be awarded to an otherwise eligible entity if the entity is out of compliance with KRS 224.43-315, 224.43-340, 224.43-345, 224.43-505, or 224.50-878.

(8) Household Hazardous Waste Management Grant funding not spent in the grant period shall be returned to the cabinet within forty-five (45) days of notification from the cabinet that grant funding needs to be returned.

Section 7. Grant Extensions. (1) An applicant or registrant may request an extension to deadlines established by this administrative regulation or the cabinet.

(2) The purpose and period of the request shall be submitted in writing to the cabinet prior to the deadline that is the subject of the request.

(3) The cabinet may grant extensions, if the cabinet determines that an extension would not have a detrimental impact on human health or the environment.

(4) Deadlines shall not be extended for the litter abatement program grant established in Section 3 of this administrative regulation.

Section 8. Enforcement. (1) An entity failing to comply with the terms of the grant agreements authorized in this administrative regulation shall be ineligible for grants authorized pur-

suant to KRS 224.43-505 or 224.50-878 until the entity returns to compliance.

(2) An entity failing to meet the requirements of 401 KAR 49:011 shall be ineligible for grants authorized pursuant to KRS 224.43-505 or 224.50-878 until the entity returns to compliance.

(3) If a governing body fails to implement an approved plan, the cabinet may initiate enforcement proceedings against the governing body. Enforcement proceedings shall be pursuant to KRS 224.10-420 and 224.10-440.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Municipal Solid Waste (MSW) Collector and Recycler Registration and Report", DEP 5033, March 2017;

(b) "County Request and Agreement for Litter Abatement Program Grant Funding", DEP 7117, March 2017;

(c) "City Request and Agreement for Litter Abatement Program Grant Funding", DEP 7118, March 2017;

(d) "City Litter Abatement Program Annual Report and Certification for Grant Funding", DWM 4900, March 2017;

(e) "Illegal Open Dump Cleanup Grant Program Grant Application", DEP 7125, March 2017;

(f) "Illegal Open Dump Cleanup Grant Program Estimated Expense Worksheet," DEP 6086, March 2017;

(g) "Illegal Open Dump Characterization Worksheet", DEP 8063, March 2017;

(h) "Illegal Open Dump Cleanup Grant Program Final Expense Worksheet", DEP 6088, March 2017;

(i) "Kentucky Pride Fund Recycling Grant Application", DEP 7126, March 2017;

(j) "Kentucky Pride Fund Recycling Grant Quarterly Report", DEP 5038, March 2017;

(k) "Kentucky Pride Fund Household Hazardous Waste Management Grant Application", DEP 7127, March 2017; and

(l) "Kentucky Pride Fund Household Hazardous Waste Management Grant Close-out Report", DEP 6087, March 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 300 Sower Boulevard, Second Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(3) This material may also be obtained on the division's Web site at eec.ky.gov/environmental-protection/waste. (30 Ky.R. 2419; 31 Ky.R. 373; 1239; eff. 1-21-2005; 37 Ky.R. 1349; 1707; eff. 3-4-2011; TAm eff. 7-8-2016; TAm eff. 12-21-2016; 43 Ky.R. 2205; eff. 9-8-2017; Crt eff. 9-5-2018; TAm eff. 5-7-2019.)